

**BY ORDER OF THE  
SECRETARY OF THE AIR FORCE**

**AIR FORCE INSTRUCTION 51-1101**

**22 JULY 2016**



**Law**

**THE AIR FORCE PROCUREMENT  
FRAUD REMEDIES PROGRAM**

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This instruction implements AAFP 51 - 11, *Coordination of Remedies for Fraud and Corruption Related to Air Force Procurement Matters*, by providing guidance for pursuing remedies in significant procurement fraud cases and other contractor responsibility matters. It implements Department of Defense Instruction (DoDI) 7050.05, *Coordination of Remedies for Fraud and Corruption Related to Procurement Activities*, May 12, 2014; Department of Defense Directive (DoDD) 5405.2, *Release of Official Information in Litigation and Testimony by DoD Personnel as Witnesses*, July 23, 1985; and DoDD 5505.5, *Implementation of the Program Fraud Civil Remedies Act*, August 30, 1988. Requests for waivers must be submitted through the chain of command to the OPR for consideration and approval, unless otherwise noted. The authorities to waive wing/unit level requirements in this publication are identified with a Tier (T-1) number following the compliance statement. Refer recommended changes and questions about this publication to the SAF/GCR using AF Form 847, *Recommendation for Change of Publication*; route AF Form 847 from the field through the appropriate functional chain of command. Attachment 1 is a glossary of abbreviations, acronyms, and terms. Attachment 2 is a list of examples of criminal, civil, contractual and administrative remedies available in response to evidence of procurement fraud. Attachment 3 is the remedies plan template.

Ensure all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS).

***SUMMARY OF CHANGES***

This issuance reflects administrative changes and related updates, conformance to new mandatory disclosure rules and the issuance of DODI 7050.05; and an updated remedies plan template.

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## Chapter 1

### PURSUIT OF REMEDIES AND PREPARATION OF REMEDIES PLANS

#### 1.1. Responsibilities:

##### 1.1.1. SAF/GCR shall:

1.1.1.1. Serve as the centralized organization for liaison among the Secretary of the Air Force, Air Staff offices, other DoD entities, the Department of Justice (DOJ), and other federal or state departments, agencies, or organizations in the coordination of remedies for significant procurement fraud cases (Attachment 2).

1.1.1.2. Provide to DOJ all recommendations concerning the initiation (including intervention determinations), amendment, settlement, or withdrawal of all civil actions filed by the United States which allege procurement fraud or corruption and involve the Air Force, with copies as appropriate to the concerned Major Command (MAJCOM), Field Operating Agency (FOA), or Direct Reporting Unit (DRU), Acquisition Fraud Counsel (AFC) and Air Force Office of Special Investigations (AFOSI). This includes providing recommendations concerning all global settlements of actions alleging procurement fraud and involving the Air Force.

1.1.1.3. Serve as the point of contact and approving authority for all litigation requests from private parties in qui tam actions involving the Air Force in which the government has declined to intervene.

1.1.1.4. Establish policies and procedures for the Air Force Procurement Fraud Remedies Program.

1.1.1.5. Measure and evaluate the overall effectiveness of the Air Force Procurement Fraud Remedies Program.

1.1.1.6. Determine whether each remedies plan submitted by a MAJCOM, FOA, or DRU AFC is "Acceptable" or "Unacceptable."

1.1.1.7. Provide MAJCOM, FOA, or DRU AFCs with coordinated Secretariat comments to remedies plans for appropriate action or consideration in the next remedies plan submission.

1.1.1.8. Serve as the release authority for remedies plans circulated outside the Air Force.

1.1.1.9. Assist the Air Education and Training Command (AETC); MAJCOM, FOA, and DRU commanders; AFOSI; and other investigative organizations in providing procurement fraud-related education.

1.1.2. MAJCOM, FOA, and DRU commanders shall ensure, in consultation with SAF/GCR, personnel under their command have adequate education and training in procurement fraud matters.

1.1.3. MAJCOM, FOA, and DRU staff judge advocates (SJA) shall administer the MAJCOM, FOA, and DRU procurement fraud remedies program and shall designate one or

more MAJCOM, FOA, or DRU attorneys as permanent AFCs to assist in fulfilling this responsibility. (T-1)

1.1.4. MAJCOM, FOA, and DRU AFCs shall:

1.1.4.1. Coordinate with SAF/GCR and installation AFCs or commanders in all significant procurement fraud cases. (T-1)

1.1.4.2. Review remedies plans prepared by subordinate units to ensure compliance with the standards established by this Instruction. (T-1)

1.1.4.3. Provide feedback to installation AFCs as to the quality of each submitted remedies plan, including requests for clarification or additional information for appropriate action or consideration in the next remedies plan submission.

1.1.4.4. Forward timely, acceptable remedies plans prepared by subordinate units in accordance with the standards established by this instruction to SAF/GCR and using the template provided in Attachment 3.

1.1.4.5. Provide timely legal reviews and recommendations concerning settlement of all procurement fraud cases which involve their installations, programs, or facilities when requested by SAF/GCR. Such recommendations should include input from each of the following, if applicable:

1.1.4.5.1. Lead investigating agent.

1.1.4.5.2. Affected program office.

1.1.4.5.3. DLA Fraud Counsel.

1.1.4.5.4. Contracting officer.

1.1.4.5.5. Defense Contract Audit Agency (DCAA).

1.1.4.5.6. Defense Contract Management Agency (DCMA).

1.1.4.5.7. Air Force Audit Agency (AFAA).

1.1.5. Installation commanders shall:

1.1.5.1. Ensure personnel under their command have adequate education and training in procurement fraud matters.

1.1.5.2. Refer to AFOSI all alleged criminal offenses within AFOSI's investigative responsibilities. (T-1)

1.1.5.3. Provide testing support to AFOSI and other investigative agencies in significant procurement fraud cases involving allegations of defective products or product substitution concerning his or her installation. The concerned procurement program will bear all reasonable costs associated with such support.

1.1.6. Installation SJA's shall:

1.1.6.1. Administer the installation procurement fraud remedies program and shall designate an attorney to act as the permanent AFC to assist in fulfilling this responsibility. (T-1)

1.1.6.2. Ensure timely preparation of an acceptable remedies plan for each significant procurement fraud case involving his or her installation. Remedies plans shall include the two attachments identified in Attachment 3, Remedies Plan Template, Section VI. The elements of the potential criminal and civil offenses shall be listed as early in the investigation as possible. As facts are developed, specific documents and statements that establish each element shall be listed in support of each element. (T-1)

1.1.6.3. Support DOJ in criminal and civil proceedings arising from procurement fraud cases to the maximum extent practicable.

1.1.6.4. Ensure the confidentiality of procurement fraud investigations and controlled access to AFOSI investigative materials by permitting disclosure of such investigations and materials only with the consent of AFOSI.

1.1.6.5. Support Program Office, or other requiring organization, in exercising contract remedies.

1.1.6.6. Support the Air Force Suspending and Debarring Official (SDO) in exercising administrative remedies.

1.1.7. Installation AFCs shall:

1.1.7.1. Immediately conduct a thorough contract review of each significant procurement fraud case, and list each specific contract requirement and legal authority that supports the remedy. (See Attachment 2, Section III.)

1.1.7.2. Prepare a comprehensive remedies plan using the template in Attachment 3 and in accordance with the standards established by this Instruction for each significant procurement fraud case. (T-1)

1.1.7.3. Forward timely, acceptable remedies plans to their MAJCOM, FOA, or DRU AFCs.

1.1.7.4. Provide timely legal reviews and recommendations concerning settlement of all procurement fraud cases involving their installations, programs, or facilities when requested by their MAJCOM, FOA, or DRU AFCs. Such recommendations should include input from each of the following, if applicable:

1.1.7.4.1. Lead investigating agent.

1.1.7.4.2. Affected program office.

1.1.7.4.3. DLA Fraud Counsel.

1.1.7.4.4. Contracting officer.

1.1.7.4.5. DCAA.

1.1.7.4.6. DCMA.

1.1.7.4.7. AFAA.

1.1.7.5. Provide timely advice and support to DOJ, AFOSI and other investigative agents in all procurement fraud cases on a continuing basis throughout the investigation. Such advice and support includes, but is not limited to, a detailed assessment of the contractual and evidentiary issues which may affect the successful criminal and civil

prosecution of the case and the identification of applicable criminal, civil, contractual, and administrative remedies.

1.1.7.6. Advise investigating agents on all civil, contractual, or administrative actions proposed during the pendency of a criminal investigation or prosecution.

1.1.7.7. Coordinate with the appropriate DLA Fraud Counsel in all procurement fraud cases that involve Air Force contracts which are administered by DLA.

1.1.7.8. Engage in continuous communication with contracting officers, DOJ, AFOSI and DLA regarding the subject and coordination of the investigation. Such communication should be on a regular basis and not solely in preparation of the remedies plan. Working with the contracting officer, and in accordance with applicable authorities, timely execute appropriate contractual remedies.

1.1.7.9. Prepare victim impact statements for DOJ for use in sentencing proceedings.

1.1.7.10. Assist SAF/GCR and the responsible MAJCOM, FOA, and DRU AFCs in determining appropriate fund citations for the return of recoveries in procurement fraud cases to the affected Air Force installations or programs.

1.1.7.11. When feasible, accompany investigating agents when a final criminal or civil prosecutive decision is sought from DOJ in a significant procurement fraud case.

1.1.8. AFOSI shall:

1.1.8.1. Notify SAF/GCR immediately if unsure as to the appropriate AFC for any significant procurement fraud case. (T-1)

1.1.8.2. Advise installation AFCs in the preparation of remedies plans for each significant procurement fraud case and the provision of recommendations concerning settlement of procurement fraud cases. Identify all contracts impacted by the suspected fraud and advise the AFC of the contract numbers as early as possible in the investigation.

1.1.8.3. Advise MAJCOM, FOA, or DRU AFCs in the review of remedies plans.

1.1.8.4. Provide SAF/GCR, the concerned installation AFCs, and the concerned contracting officer with a court-certified copy of any indictment, conviction, or civil judgment against the subject of an Air Force procurement fraud case in which AFOSI is involved within 30 working days of such action. (T-1)

1.1.8.5. In accordance with DoDI 7050.05, provide prompt notice to SAF/GCR at the inception of all significant procurement fraud investigations. Except as provided for in 1.1.8.5.1., 1.1.8.5.2., and 1.1.8.5.3., promptly provide copies of all Investigative Reports (IR's) to SAF/GCR and the concerned installation AFC in each procurement fraud case. (T-1)

1.1.8.5.1. The concerned installation AFC and SAF/GCR shall be provided with all IRs for each procurement fraud case unless the provision of such reports raises serious operational security concerns as determined by the concerned AFOSI Region Commander on a non-delegable basis.

1.1.8.5.2. AFOSI shall provide all IRs to SAF/GCR and the concerned installation AFC to the maximum extent permitted by the lead investigative agency if such agency is not AFOSI. (T-1)

1.1.8.5.3. AFOSI shall contact SAF/GCR immediately if directed by DOJ or another investigative agency not to provide IRs for any particular procurement fraud case. SAF/GCR shall resolve the matter with DOJ, or the other investigative agency, should the nondisclosure raise significant concerns to the Air Force. (T-1)

1.1.8.6. Consult with the concerned installation AFC in all procurement fraud cases on a continuing basis throughout the investigation, except as provided for in 1.1.8.5. Such consultation and AFC support includes, but is not limited to, a detailed assessment of the contractual and evidentiary issues which may affect the successful criminal or civil prosecution of the case and identification of potentially applicable criminal, civil, contractual, and administrative remedies.

1.1.8.7. Advise prosecution authorities as to any known DoD office concerned about the adverse impact on a DoD mission that the prosecution of a case would create.

1.1.8.8. Advise the concerned installation AFC as to any adverse impact that contractual or administrative remedies being considered would have on an ongoing criminal investigation.

1.1.8.9. Refer all settlement offers from DOJ to SAF/GCR. Only SAF/GCR has the authority to recommend acceptance, modification, or rejection of such settlement offers on behalf of the Air Force.

**1.1.9. Chief of Contracting Office shall:**

1.1.9.1. Ensure that personnel under their command have adequate education and training in procurement fraud matters.

1.1.9.2. Refer to AFOSI all alleged criminal offenses within AFOSI's investigative responsibilities. (T-1)

1.1.9.3. Refer to SAF/GCR evidence of all suspected significant procurement fraud matters, as well as evidence of non-responsibility pursuant to DFARS 209.406-3. (T-1)

1.1.9.4. Engage in regular communication with the AFC, SAF/GCR, DOJ, AFOSI and DLA regarding the subject and coordination of the investigation, and keep the first line AFC apprised of all communications. Such communication should be on a regular basis and not solely in preparation of the remedies plan.

1.1.10. The Office of the Deputy Assistant Secretary for Contracting (SAF/AQC) shall review and submit timely comments on remedies plans when requested by SAF/GCR.

**1.2. Procedures:**

**1.2.1. Opening of remedies plans.**

1.2.1.1. SAF/GCR shall open remedies plans upon receipt of information of a significant procurement fraud case through notification from one of the following: an installation commander; a contracting officer; an IR; or any other credible source. SAF/GCR may open a remedies plan for any other reason at its discretion.

1.2.1.1.1. Except as set forth in 1.2.1.1.2., the initial IR from AFOSI, all subsequent IRs, and any other document containing allegations of procurement fraud must include the following elements, if known:

1.2.1.1.1.1. File number.

1.2.1.1.1.2. Date.

1.2.1.1.1.3. Name, unit, and telephone number of the reporting agent.

1.2.1.1.1.4. Status and purpose of the report.

1.2.1.1.1.5. Subject.

1.2.1.1.1.6. Summary of alleged offenses.

1.2.1.1.1.7. Affected contract numbers.

1.2.1.1.1.8. Affected programs.

1.2.1.1.1.9. Estimated dollar loss to the government.

1.2.1.1.1.10. Lead investigative agency and office.

1.2.1.1.1.11. Whether the allegations involve another service component or DoD entity.

1.2.1.1.1.12. Any restrictions on the discussion of case information with those charged with the evaluation and implementation of remedies.

1.2.1.1.2. In cases where the concerned AFOSI Region Commander or the head of another criminal investigative organization determines that the release of certain information would jeopardize the successful prosecution of any case if released, the initial IR shall not contain such information. AFOSI must inform SAF/GCR when such information is not released. (T-1)

1.2.1.2. SAF/GCR shall assign an appropriate suspense date for the preparation of each initial remedies plan.

1.2.1.3. AFOSI shall inform SAF/GCR and the concerned installation AFC of procurement fraud cases it brings to the attention of a DLA Fraud Counsel or another federal agency or department attorney. (T-1)

1.2.1.4. SAF/GCR shall consider delaying the opening of a remedies plan if the concerned AFOSI Region Commander or the head of another criminal investigative agency advises SAF/GCR, in writing, that opening a remedies plan immediately would jeopardize the successful prosecution of the case.

1.2.1.4.1. The concerned AFOSI Region Commander must provide SAF/GCR with a written explanation of why the immediate opening of a remedies plan would jeopardize the successful prosecution of a case. (T-1)

1.2.1.4.2. When SAF/GCR determines that opening a remedies plan could jeopardize the successful prosecution of a case, SAF/GCR shall place such cases on "HOLD" status until those initial concerns are resolved.

1.2.1.4.3. The concerned AFOSI Region Commander or the head of another criminal investigative agency shall inform SAF/GCR immediately, in writing, when those initial concerns have subsided. (T-1)

1.2.1.5. The installation SJA and the MAJCOM AFC shall approve each initial remedies plan, and all subsequent updated plans. (T-1)

1.2.2. Updating of remedies plans:

1.2.2.1. Except as provided for in 1.2.2.2., installation AFCs shall submit updated remedies plans for each significant procurement fraud case to SAF/GCR, through their MAJCOM, FOA, or DRU AFC, within 6 months of the suspense date for the last remedies plan unless otherwise directed by SAF/GCR. (T-1)

1.2.2.2. Installation AFCs shall submit an updated plan to SAF/GCR through their MAJCOM, FOA, or DRU AFC within 30 working days of any of the following: (T-1)

1.2.2.2.1. Indictment or conviction of or civil judgment against the remedies plan subject.

1.2.2.2.2. Suspension or debarment of the remedies plan subject, or an affiliate, by any agency other than the Air Force.

1.2.2.2.3. Congressional inquiry concerning the investigation being reported in the remedies plan.

1.2.2.2.4. Any other event significant enough to warrant an early update as determined by SAF/GCR, the concerned MAJCOM, FOA, or DRU AFC.

1.2.2.3. Updated remedies plans shall contain all information previously reported.

1.2.2.4. The installation AFC shall underline or otherwise highlight all new or updated information in each remedies plan.

1.2.2.5. Updated remedies plans shall address all concerns previously raised by SAF/GCR, SAF/AQC, or the concerned MAJCOM, FOA, or DRU AFC in response to the last plan.

1.2.3. Closure of remedies plans:

1.2.3.1. SAF/GCR has the sole authority to close remedies plans.

1.2.3.2. SAF/GCR shall close a remedies plan only after exhausting and monitoring through completion of all applicable criminal, civil, contractual, and administrative remedies, including suspension and debarment.

1.2.3.3. SAF/GCR shall provide written notification of the closure of a remedies plan to the concerned MAJCOM, FOA, or DRU AFC, who shall in turn provide such written notification to AFOSI and the concerned installation AFC.

1.2.4. Restrictions on the circulation of remedies plans.

1.2.4.1. SAF/GCR must approve any circulation of a remedies plan outside the Air Force. Before making this determination, SAF/GCR shall consult the concerned MAJCOM, FOA, or DRU AFC, DOJ, and AFOSI, as appropriate.

1.2.5. In lieu of preparing a remedies plan, in accordance with this Instruction, SAF/GCR may request that assigned AFC provide equivalent information through the Contractor Responsibility Information (CRIS) database.

## Chapter 2

### QUI TAM AND PROCUREMENT FRAUD LITIGATION

#### 2.1. SAF/GCR shall:

2.1.1. Serve as the central authority for receiving, coordinating, and responding to inquiries from within and outside the Air Force in all qui tam and procurement fraud actions (“fraud actions”) involving the Air Force.

2.1.2. Provide to DOJ all recommendations concerning intervention by the government, and settlement, amendment, or dismissal of all fraud actions involving the Air Force with copies to the concerned MAJCOM, FOA, or DRU AFC and AFOSI.

2.1.3. Coordinate with the DLA Office of General Counsel if the fraud action involves Air Force contracts administered by DLA.

#### 2.2. MAJCOM, FOA, and DRU AFCs shall:

2.2.1. Provide legal reviews and recommendations concerning intervention or settlement of all fraud actions which involve their installations or facilities when requested by SAF/GCR. (T-1)

2.2.1.1. Such recommendations shall include the following elements:

2.2.1.1.1. A detailed assessment of whether any of the relator’s allegations have merit, including the findings of investigators, auditors, program officials, and contracting personnel, if applicable.

2.2.1.1.2. An assessment of whether the government incurred damages as a result of the defendant’s misconduct and an explanation of that assessment.

2.2.1.1.3. A quantification of any damages incurred by the government as a result of the defendant’s misconduct and an explanation of that quantification.

2.2.1.2. Such recommendations should include input from each of the following, if applicable:

2.2.1.2.1. Lead investigating agent.

2.2.1.2.2. Affected program office.

2.2.1.2.3. DLA Fraud Counsel.

2.2.1.2.4. Contracting officer.

2.2.1.2.5. DCAA.

2.2.1.2.6. AFAA.

2.2.2. Inform SAF/GCR immediately if an extension of the government intervention deadline is necessary to provide a meaningful legal review and recommendation concerning intervention.

2.2.3. Inform SAF/GCR immediately if new information is discovered which supports a relator’s allegations in cases where the government has already declined to intervene.

**2.3. Installation AFCs shall:**

2.3.1. Provide legal reviews and recommendations concerning intervention or settlement of all fraud actions involving their respective installations, programs, or facilities when requested by SAF/GCR, or their MAJCOM, FOA, or DRU AFC. (T-1)

2.3.1.1. Such recommendations shall include the following elements:

2.3.1.1.1. A detailed assessment of whether any of the relator's allegations have merit, including the findings of investigators, auditors, program officials, and contracting personnel, if applicable.

2.3.1.1.2. An assessment of whether the government incurred damages as a result of the defendant's misconduct and an explanation of that assessment.

2.3.1.1.3. A quantification of any damages incurred by the government as a result of the defendant's misconduct and an explanation of that quantification.

2.3.1.2. Such recommendations should include input from each of the following, if applicable:

2.3.1.2.1. Lead investigating agent.

2.3.1.2.2. Affected program office.

2.3.1.2.3. DLA Fraud Counsel.

2.3.1.2.4. Contracting officer.

2.3.1.2.5. DCAA.

2.3.1.2.6. DCMA.

2.3.1.2.7. AFSA.

2.3.2. Inform their MAJCOM, FOA, or DRU AFC immediately if an extension of the government intervention deadline is necessary to provide a meaningful legal review and recommendation concerning intervention.

2.3.3. Inform their MAJCOM, FOA, or DRU AFC immediately if new information is discovered pursuant to 2.4.1.

**2.4. AFOSI shall:**

2.4.1. Respond directly to requests from DOJ and DoD/IG for investigative support concerning all fraud actions involving the Air Force, and inform the concerned installation AFC of such requests.

2.4.2. Provide the following information, in addition to the elements set forth in 1.2.1.1.1., in each IR prepared for fraud actions:

2.4.2.1. Court docket number.

2.4.2.2. Date the qui tam seal was lifted, if applicable.

2.4.3. Advise MAJCOM, FOA, and DRU AFCs and installation AFCs in formulating recommendations concerning intervention or settlement of fraud actions.

### Chapter 3

## LITIGATION REQUESTS OF PRIVATE PARTIES IN QUI TAM ACTIONS INVOLVING THE AIR FORCE IN WHICH THE GOVERNMENT DECLINED TO INTERVENE

**3.1. Official Information.** Private Qui tam litigants will have reasonable and impartial access to official information during discovery in cases involving the Air Force in which the government declined to intervene, unless that information is classified, privileged, or otherwise protected from public disclosure.

**3.2. Requesting Information.** The private qui tam litigant requesting such release of official information or testimony from Air Force personnel must set forth, in writing, the specific nature and relevance of the information or testimony sought.

**3.3. Discovery Request.** Any Air Force organization that receives a discovery request from private qui tam litigants for official information or testimony shall immediately forward the request to SAF/GCR and forward an information copy of the request to the concerned MAJCOM, FOA, or DRU AFC.

**3.4. Consultation.** After consultation with DOJ, AFOSI, the concerned installation AFC, and other Air Force stakeholders, SAF/GCR shall determine whether official information is released, whether Air Force personnel may appear and testify as witnesses in such litigation or be interviewed or contacted pursuant to such litigation, and whether any conditions are imposed concerning such release, appearance, or contact.

**3.5. Types of Factors.** In determining whether to approve such requests, SAF/GCR shall consider the following types of factors:

3.5.1. Whether the request is unduly burdensome or otherwise inappropriate under the applicable court rules.

3.5.2. Whether the disclosure or testimony is appropriate under the rules of procedure governing the case in which the request arose.

3.5.3. Whether the disclosure or testimony would violate a statute, executive order, regulation, or directive.

3.5.4. Whether the disclosure or testimony is appropriate or necessary under the relevant substantive law concerning privilege.

3.5.5. Whether the disclosure or testimony would constitute an unauthorized release of classified information.

3.5.6. Whether the disclosure or testimony would interfere with or undermine an ongoing enforcement proceeding, compromise constitutional rights, reveal trade secrets or similar confidential commercial or financial information, or otherwise be inappropriate under the circumstances.

**3.6. SAF/GCR Approval.** Air Force personnel will only produce, disclose, release, comment upon, or testify concerning those matters approved by SAF/GCR in writing.

**3.7. Authorization.** Air Force personnel shall not provide opinion or expert testimony including, but not limited to, the issues of liability or causation, concerning official DoD information, subjects, or activities unless authorized to do so by SAF/GCR in writing.

## Chapter 4

### MANDATORY DISCLOSURE CASES

**4.1. SAF/GCR** shall serve as the central authority for the Air Force to receive, coordinate, and respond to inquiries from within and outside the Air Force in all mandatory disclosure cases involving the Air Force, except as provided for in 4.3.1.

**4.2. Inquiries.** SAF/GCR shall respond directly to all inquiries from within and outside the Air Force relating to suspension or debarment of a contractor in all mandatory disclosure cases involving the Air Force or Air Force contractors.

**4.3. AFOSI shall:**

4.3.1. Respond directly to requests from DOJ and other investigative agencies for investigative support in all mandatory disclosure cases involving the Air Force, and provide notice to SAF/GCR of such requests. (T-1)

4.3.2. Advise MAJCOM, FOA, and DRU AFCs in formulating recommendations concerning resolution of mandatory disclosure cases.

## Chapter 5

### PROGRAM FRAUD CIVIL REMEDIES ACT CASES

#### 5.1. Responsibilities and Authorities:

5.1.1. The Office of the Undersecretary of the Air Force (SAF/US) shall:

5.1.1.1. Serve as the Air Force Authority Head in all cases brought under the Program Fraud Civil Remedies Act of 1986 (PFCRA), Title 31, United States Code (U.S.C.) Sections 3801-3812.

5.1.1.2. Establish procedures for the conduct of all PFCRA administrative hearings.

5.1.1.3. Serve as the final authority in all appeals of decisions by Presiding Officers.

5.1.1.4. Approve or reject any offers of settlement or compromise in PFCRA cases involving the Air Force after the date on which the Presiding Officer renders an initial decision, except as provided for in DoD Directive 5505.5.

5.1.2. The Office of the General Counsel of the Air Force (SAF/GC) shall:

5.1.2.1. Advise and assist SAF/US in fulfilling its responsibilities as the Authority Head for the Air Force.

5.1.2.2. Obtain Presiding Officers as needed for hearings in PFCRA cases involving the Air Force.

5.1.3. SAF/GCR shall serve as the Air Force Reviewing Official for all PFCRA cases involving fraud on procurement contracts. As such, SAF/GCR shall:

5.1.3.1. Determine if adequate evidence of liability under PFCRA exists.

5.1.3.2. Approve or reject any offer of settlement or compromise in PFCRA cases involving the Air Force prior to the date on which the Presiding Officer makes an initial decision.

5.1.4. The Office of the Deputy General Counsel of the Air Force for Fiscal, Ethics and Administrative Law (SAF/GCA) shall serve as the Air Force Reviewing Official for all PFCRA cases involving fraud by civilian Air Force employees. As such, SAF/GCA shall:

5.1.4.1. Determine if adequate evidence of liability under PFCRA exists.

5.1.4.2. Approve or reject any offer of settlement or compromise in PFCRA cases involving the Air Force prior to the date on which the Presiding Officer makes an initial decision.

5.1.5. The Office of the Deputy General Counsel of the Air Force for Intelligence, International and Military Law (SAF/GCI) shall serve as the Air Force Reviewing Official for all PFCRA cases involving fraud by military Air Force employees. As such, SAF/GCI shall:

5.1.5.1. Determine if adequate evidence of liability under PFCRA exists.

5.1.5.2. Approve or reject any offer of settlement or compromise in PFCRA cases involving the Air Force prior to the date on which the Presiding Officer makes an initial decision.

5.1.6. DoD/IG:

5.1.6.1. Serves as the Investigating Official in all PFCRA cases.

5.1.6.2. Conducts investigations of all alleged PFCRA violations involving the Air Force.

5.1.6.3. Reports all findings and conclusions from such investigations to the Air Force Reviewing Official.

5.1.7. The Office of the Air Force Judge Advocate General (AF/JA) shall appoint an Air Force Representative for each case referred to the Air Force Reviewing Official by the Investigating Official. The Air Force Representative shall:

5.1.7.1. Review and summarize the evidence for each case referred to the Air Force Reviewing Official by the Investigating Official.

5.1.7.2. Provide a recommendation to the Air Force Reviewing Official as to whether adequate evidence of liability under PFCRA exists.

5.1.7.3. If the Air Force Reviewing Official finds that adequate evidence of liability under PFCRA exists, draft a complaint for the signature of the Reviewing Official.

5.1.7.4. Pursue all cases before a Presiding Officer including, but not limited to, the following tasks:

5.1.7.4.1. Filing of all pleadings.

5.1.7.4.2. Conducting discovery.

5.1.7.4.3. Presenting evidence at the hearing.

5.1.7.5. Negotiate all settlements or compromises on behalf of the Air Force prior to the date of the Presiding Officer's initial decision, subject to the approval of the Air Force Reviewing Official.

5.1.8. MAJCOM, FOA, and DRU commanders shall provide recommendations, documents, witnesses, and assistance, including funding for temporary duty, travel, and support, as needed by the Air Force Reviewing Official and the Air Force Representative to fulfill their respective functions.

**5.2. Procedures:**

5.2.1. Upon receipt of a PFCRA case from the Investigating Official, or from other sources, the Air Force Reviewing Official shall prepare a case file and forward the matter to the Air Force Representative for review.

5.2.2. The Air Force Representative shall review the case file, summarize the evidence, prepare a recommendation as to whether adequate evidence of liability under PFCRA exists, and return the case file to the Air Force Reviewing Official.

5.2.3. The Air Force Reviewing Official shall review the case file and the recommendation provided by the Air Force Representative in order to determine whether adequate evidence of liability under PFCRA exists.

5.2.3.1. If the Air Force Reviewing Official determines that adequate evidence of liability under PFCRA exists and that the case is worth pursuing, he or she will provide written notice of the intention to issue a complaint to the PFCRA designee within DOJ.

5.2.3.2. If the Air Force Reviewing Official determines that the case is not worth pursuing, he or she shall so inform DoD/IG.

5.2.4. Upon receipt of approval to proceed from the PFCRA designee within DOJ, the Air Force Reviewing Official shall instruct the Air Force Representative to draft a complaint.

5.2.5. The Air Force representative shall forward the complaint to the Air Force Reviewing Official for signature and service upon the defendant.

5.2.6. After serving the complaint, SAF/GC shall appoint a Presiding Officer under 5 U.S.C., **Chapter 33**, pursuant to the competitive examination process applicable to administrative law judges.

5.2.7. If the defendant answers the complaint within 30 days of service, the Air Force Reviewing Official shall file the complaint and answer with the Presiding Officer.

5.2.8. If the defendant does not answer the complaint within 30 days of service, the Air Force Reviewing Official may file the complaint with the Presiding Officer.

5.2.9. The Air Force Representative shall maintain all contacts with the defendant and Presiding Officer concerning the litigation of the case and settlement negotiations.

5.2.10. The Air Force Representative shall refer to the Air Force Reviewing Official all offers of settlement or compromise made prior to the Presiding Officer's initial decision.

5.2.11. The Air Force Reviewing Official has the sole authority to accept or reject any offer of settlement or compromise prior to the date on which the Presiding Officer renders an initial decision.

5.2.12. The Air Force Authority Head (SAF/US) shall review all appeals of a Presiding Officer's decision.

5.2.13. SAF/GC shall provide a copy of the defendant's appeal of the Presiding Officer's decision to the Air Force Representative, who may submit a brief in opposition.

5.2.14. To assist in deciding an appeal of the Presiding Officer's decision, SAF/GC shall provide the following to SAF/US:

5.2.14.1. The decision of the Presiding Officer.

5.2.14.2. The notice of appeal.

5.2.14.3. The record of the proceeding before the Presiding Officer.

5.2.14.4. Any brief in opposition to the appeal.

5.2.14.5. Any advice or recommendation deemed appropriate.

5.2.15. After the Air Force Authority Head makes a decision on the appeal, SAF/GC shall prepare a document reflecting that decision for the signature of SAF/US and serve notice of the decision to the parties.

5.2.16. The Air Force Authority Head has the sole authority to accept or reject any offer of settlement or compromise after the date on which the Presiding Officer renders an initial decision, except as provided for by DoD Directive 5505.5.

## Chapter 6

### SUSPENSION AND DEBARMENT

#### 6.1. SAF/GCR shall:

6.1.1. Serve as the Air Force Suspending and Debarring Official (SDO). As such, SAF/GCR shall:

6.1.1.1. Consider in a timely manner all Air Force cases recommending the suspension or debarment of contractors.

6.1.1.2. Serve as the final authority for the Air Force in assessing and entering into an administrative agreement with a contractor in lieu of suspension or debarment.

6.1.1.3. Serve as the authority for determining whether to send contractors communications that seek information and clarification but do not impact a contractor's eligibility to obtain new contracts.

6.1.1.4. Coordinate with all appropriate federal departments, agencies, and organizations from within and outside the Air Force before taking any suspension or debarment action against a contractor, or any action in lieu of suspension or debarment.

6.1.1.5. Provide timely results to appropriate stakeholders in all Air Force suspension and debarment actions. 6.1.2. SAF/GCR shall respond directly to all inquiries from within and outside the Air Force relating to suspension or debarment of a defendant in any procurement fraud action involving the Air Force.

**6.2. SAF/AQC.** The Office of the Deputy Assistant Secretary of the Air Force for Contracting (SAF/ AQC), shall provide SAF/GCR, upon request, with program or contracting information necessary to clarify issues in any suspension or debarment case and inform SAF/GCR of any program concerns implicated by potential suspension or debarment of a contractor.

**6.3. Comments and Recommendations.** MAJCOM, FOA, and DRU AFCs shall review all reports recommending suspension or debarment of a contractor and provide timely comments and recommendations to SAF/GCR concerning each report.

#### 6.4. Installation AFCs shall:

6.4.1. Assist contracting officers in the preparation of timely reports in accordance with this Instruction, Federal Acquisition Regulation (FAR) Subpart 9.4, Debarment, Suspension, and Ineligibility, current edition, Defense FAR Supplement (DFARS) Subpart 209.4, Debarment, Suspension, and Ineligibility, current edition, and Air Force FAR Supplement (AFFARS) Subpart 5309.4, Debarment, Suspension, and Ineligibility, current edition, recommending suspension or debarment of a contractor.

6.4.2. Forward each report recommending suspension or debarment of a contractor to SAF/GCR with a copies to the cognizant MAJCOM, FOA, or DRU AFC and Chief of Contracting. (T-1)

#### 6.5. AFOSI shall:

6.5.1. Advise contracting officers in preparing reports recommending suspension or debarment of a contractor.

6.5.2. Obtain documentary or testimonial evidence, including releasable summaries of investigation and certified copies of criminal or civil action against the contractor, which is needed by the contracting officer, installation AFC, or SAF/GCR in any suspension or debarment action. 6.5.3. Inform SAF/GCR and Acquisition Fraud Counsel of any investigative concerns implicated by the potential suspension or debarment of a contractor.

**6.6. Recommendations for Suspension and Debarment.** Any person may submit a recommendation to suspend or debar a contractor to SAF/GCR. To submit such a recommendation contact SAF/GCR at [usaf.pentagon.saf-gc.mbx.saf-gcr-workflow@mail.mil](mailto:usaf.pentagon.saf-gc.mbx.saf-gcr-workflow@mail.mil).

6.6.1. Refer to AFOSI, all alleged criminal offenses within AFOSI's investigative responsibility.

## Chapter 7

### NON-CONFORMING PRODUCT, DEFECTIVE PRODUCT, PRODUCT SUBSTITUTION, AND COUNTERFEIT MATERIEL INVESTIGATIONS

**7.1. SAF/GCR shall:** As the Air Force's centralized organization pursuant to DoDI 7050.05, carry out the responsibilities of the centralized organization delineated in DoDI 7050.05, Enclosure 5, for investigations involving non-conforming products, defective products, product substitution and counterfeit materiel.

7.1.1. Installation AFCs shall prepare victim impact statements describing the adverse impact of the fraud on DoD programs, and shall provide such statements to SAF/GCR.

**7.2. Installation AFCs shall:** Facilitate and coordinate appropriate testing support is provided to AFOSI and other investigative agencies in significant procurement fraud cases involving allegations of defective products or product substitution concerning his or her installation. The concerned procurement program will bear all reasonable costs associated with such support.

**7.3. AFMC and AFSPC shall:** Analyze all suspect counterfeit items in accordance with AFI 23-101.

**7.4. AFOSI shall:**

7.4.1. Carry out the responsibilities delineated in AFI 23-101 for the investigation, notification, and disposition of suspect counterfeit and discrepant materiel.

7.4.2. Report testing results of counterfeit and discrepant materiel, and provide such results to SAF/GCR and Air Force components and DoD activities, as appropriate.

7.4.3. Inform SAF/GCR of safety-related developments in significant procurement fraud investigations.

## Chapter 8

### PROCUREMENT FRAUD-RELATED EDUCATION

#### 8.1. SAF/GCR shall:

8.1.1. Develop and conduct appropriate procurement fraud related education and training as necessary for Air Force personnel.

8.1.2. Coordinate as needed with AETC to ensure that procurement fraud-related education and training opportunities exist for and are shared with Air Force personnel.

8.1.3. Assist MAJCOM, FOA, DRU and Installation commanders, AFOSI, Chiefs of Contracting in assessing training needs and providing procurement fraud-related education.

**8.2. Education and Training.** MAJCOM, FOA, DRU, Installation and AFOSI commanders, and Chiefs of Contracting shall ensure annually that personnel under their command have adequate education and training in procurement fraud matters. (T-1)

Gordon O. Tanner  
General Counsel

**Attachment 1****GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

10 U.S.C § 13 2306—Truth in Negotiations Act

10 U.S.C. § 2207—Gratuities

10 U.S.C. § 13 2307(e)—Suspension of Payments

15 U.S.C. § 1, et seq.—Sherman Antitrust Act

18 U.S.C. § 152—Concealment of Assets

18 U.S.C. §§ 201-208, 216—Bribery, Gratuities, and Conflicts of Interest

18 U.S.C. § 218—Voiding Contracts

18 U.S.C. § 286—Conspiracy to Defraud in Connection with Claims

18 U.S.C. § 287—False Claims

18 U.S.C. § 371—Conspiracy to Defraud

18 U.S.C. § 494—Falsification of Contractors’ Bonds, Bids, and Public Records

18 U.S.C. § 641—Theft, Embezzlement, or Destruction of Public Money, Property, or Records

18 U.S.C. § 1001—False Statements

18 U.S.C. § 1029—Misuse of an Access Device

18 U.S.C. § 1031—Major Fraud Act

18 U.S.C. § 1341—Mail Fraud

18 U.S.C. § 1343—Wire Fraud

18 U.S.C. § 1503—Obstruction of Justice

18 U.S.C. § 1505—Obstruction of Proceedings

18 U.S.C. § 1516—Obstruction of a Federal Audit

18 U.S.C. § 1905—Trade Secrets Act

18 U.S.C. § 1956, et seq.—Money Laundering

18 U.S.C. § 1961 et seq.—Racketeer Influenced and Corrupt Organizations

31 U.S.C. § 3713, et seq.—Priority of Government Claims in Bankruptcy

31 U.S.C. § 3729, et seq.—False Claims Act

31 U.S.C. § 3801, et seq.—Program Fraud Civil Remedies Act

41 U.S.C. § 51, et seq.—Anti-Kickback Act

41 U.S.C. § 8701, et seq.—Criminal Anti-Kickback Statute

41 U.S.C. § 2102, et seq.—Procurement Integrity Act

Public Law 112-81 § 841—Prohibition on Contracting with the Enemy in the United States  
Central Command Theater of Operations

48 C.F.R. 52.203-13—Contractor Code of Business Ethics and Conduct

DoDD 5405.2—Release of Official Information in Litigation and Testimony by DoD Personnel  
as Witnesses, July 23, 1985

DoDD 5505.5—Implementation of the Program Fraud Civil Remedies Act, August 30, 1988

DoDI 7050.05—Coordination of Remedies for Fraud and Corruption Related to Procurement  
Activities, May 12, 2014

AFI 23-101—Materiel Management, August 8, 2013

AFI 51-301—Civil Litigation, June 20, 2002

AFMAN 37-139—Records Disposition Schedule

### ***Prescribed Forms***

None

### ***Adopted Forms***

AF Form 847, *Recommendation for Change of Publication*

### ***Abbreviations and Acronyms***

**AETC**—Air Education and Training Command **AFC**—Acquisition Fraud Counsel

**AFFARS**—Air Force FAR Supplement

**AF/JA**—Office of the Air Force Judge Advocate General

**AFMC/ENP**—Air Force Materiel Command Directorate of Engineering and Management  
(Technical Projects Division)

**AFMC/SE**—Air Force Materiel Command Directorate of Safety

**AFOSI**—Air Force Office of Special Investigations

**AFSPC/SE**—Air Force Space Command Directorate of Safety

**ASBCA**—Armed Services Board of Contract Appeals

**AUSA**—Assistant United States Attorney

**CAGE**—Contractor and Government Entity

**CRIS**—Contractor Responsibility Information System

**DCAA**—Defense Contract Audit Agency

**DCMA**—Defense Contract Management Agency

**DFARS**—Defense FAR Supplement

**DLA**—Defense Logistics Agency

**DoD**—Department of Defense

**DoDD**—Department of Defense Directive

**DoD/IG**—Office of the Department of Defense Inspector General

**DOJ**—Department of Justice

**DRU**—Direct Reporting Unit

**FAR**—Federal Acquisition Regulation

**FOA**—Field Operating Agency

**GIDEP**—Government-Industry Data Exchange Program

**HQ**—Headquarters IR—Investigative Report

**MAJCOM**—Major Command

**PFCRA**—Program Fraud Civil Remedies Act

**SAF/AQC**—Office of the Deputy Assistant Secretary for Contracting, Assistant Secretary of the Air Force for Acquisition

**SAF/GC**—Office of the Air Force General Counsel

**SAF/GCA**—Office of the Deputy General Counsel of the Air Force (Fiscal, Ethics and Administrative Law)

**SAF/GCI**—Office of the Deputy General Counsel of the Air Force (Intelligence, International and Military Affairs)

**SAF/GCR**—Office of the Deputy General Counsel of the Air Force (Contractor Responsibility & Conflict Resolution)

**SAF/IGQ**—Air Force Office of Complaints, Remedies, and Oversight

**SAF/US**—Office of the Under Secretary of the Air Force

**SDO**—Air Force Suspending and Debarring Official SJA—Staff Judge Advocate

**U.S.C**—United States Code

### ***Terms***

**Acquisition Fraud Counsel (AFC)**—An Air Force attorney (generally a civilian) appointed by the cognizant Staff Judge Advocate to permanently assist in the management, oversight, and operation of the procurement fraud remedies program for his or her command, installation, or program.

**Air Force Personnel**—Present and former United States Air Force military personnel; United States Air Force Academy cadets; present and former civilian employees of the Department of the Air Force, including non-appropriated fund activity employees; and non-United States nationals who perform services overseas under the provision of status of forces agreements for the United States Air Force.

**Air Force Representative**—Person assigned by AF/JA to conduct litigation on behalf of the Air Force in all cases in which the Reviewing Official determines that there is adequate evidence of liability under PFCRA.

**Authority Head**—Person who promulgates procedures for the conduct of administrative hearings and serves as the final authority for all appeals in PFCRA cases.

**Chief of Contracting Office**—Person with direct managerial responsibility for the operation of a contracting office. This may include the deputy chief or acting chief of the contracting office and the Contracting Squadron Commander.

**Contractor**—Any legal entity or individual that directly or indirectly, submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a Government contract, including a contract for carriage under Government or commercial bills of lading, or a subcontract under a Government contract; or conducts business, or reasonably may be expected to conduct business, with the Government as an agent or representative of another contractor.

**Contractor Responsibility Information System (CRIS)**—Software application tool used by AFCs and SAF/GCR to comply with reporting and monitoring requirements under this Instruction and DODI 7050.05. The most current CRIS User Guide may be found on the SAF/GCR page on the Air Force Portal.

**Debarment**—Action taken by a Debarring Official under FAR Subpart 9.4 to exclude a contractor from government contracting or government-approved subcontracting for a reasonable, specified period; a contractor so excluded is “debarred.”

**Fraud**—Any intentional deception by an individual, corporation, partnership, or other entity which seeks to unlawfully deprive the Air Force of something of value or to secure from the Air Force a benefit, privilege, allowance, or consideration for which there is no entitlement.

**Installation**—An Air Force Base, Station, Center, other fixed location, or center as designated by a MAJCOM, FOA, or DRU. This definition includes Air Force Materiel Command and Air Force Space Command product centers.

**Hold**—Status of a significant procurement fraud case when a remedies plan is not opened immediately because of operational security reasons raised in writing by the concerned AFOSI Region Commander or the head of another criminal investigative agency.

**Investigating Official**—Person designated to investigate cases of alleged liability under PFCRA and to report all findings and conclusions of such investigations to the Reviewing Official.

**Investigative Report**—Any report generated by an investigative agency, including a Case Status Report, Serious Incident Report, Report of Investigation, or any other report of a similar nature.

**Mandatory Disclosure**—A disclosure made by a contractor to the DoD-IG in accordance with 48 C.F.R. 52.203-13.

**Official Information**—All information of any kind, however stored, that is in the custody or control of the Department of the Air Force, relates to information in the custody and control of the Air Force, or was acquired by Air Force personnel as part of their official duties or because of their official status within the department while such personnel were employed by or worked on behalf of the department or on active duty with the Air Force.

**Presiding Officer**—Person employed by DoD or detailed to DoD from another agency that conducts a PFCRA case hearing.

**Qui Tam Action**—Suit filed under seal by a private party on behalf of the United States against a contractor alleging the submission of false claims to the government.

**Relator**—Person who files a qui tam action.

**Remedies**—Criminal, civil, contractual, and administrative actions that should be initiated by a commander or official having responsibility over a matter central to a significant procurement fraud case in order to protect the interests of the Air Force and to deter future incidents of fraudulent conduct.

**Remedies Plan**—Comprehensive, evolving plans prepared in accordance with this Instruction and the Contractor Responsibility Information System (CRIS) for pursuing all applicable remedies in significant procurement fraud cases. These plans are updated periodically, along with CRIS case information, to report new information and provide the status and success of all applicable remedies.

**Reviewing Official**—Person designated to determine if, based upon the findings and conclusions of the Investigating Official, there is adequate evidence of liability under PFCRA.

**Significant Procurement Fraud Case**—Alleged or confirmed instances of misconduct by a contractor which satisfy one or more of the following criteria:

- Fraud investigations involving an alleged loss of \$500,000 or more;
- All investigations of corruption involving bribery, gratuities, or conflicts of interest;
- All defective product, non-conforming product, counterfeit materiel, or product substitution investigations; and
- All cases in which there is a significant Air Force interest as determined by SAF/GCR. Such cases include, but are not limited to those involving a congressional inquiry or substantial media attention.

**Suspension**—Action taken by a Suspending Official under FAR Subpart 9.4 to disqualify a contractor temporarily from government contracting and government-approved subcontracting; a contractor so disqualified is “suspended.”

## Attachment 2

### EXAMPLES OF CRIMINAL, CIVIL, CONTRACTUAL, AND ADMINISTRATIVE REMEDIES AVAILABLE IN RESPONSE TO EVIDENCE OF PROCUREMENT FRAUD

#### *Section A--Criminal and Civil Remedies*

Truth in Negotiations Act—10 U.S.C. § 13 2306  
 Gratuities—10 U.S.C. § 2207  
 Suspension of Payments—10 U.S.C. § 13 2307(e)  
 Sherman Antitrust Act—15 U.S.C. § 1, et seq.  
 Fraud Involving Aircraft or Space Vehicle Parts—18 U.S.C. § 38  
 Concealment of Assets—18 U.S.C. § 152  
 Bribery, Gratuities, and Conflicts of Interest—18 U.S.C. §§ 201-208, 216  
 Voiding Contracts—18 U.S.C. § 218  
 Conspiracy to Defraud in Connection with Claims—18 U.S.C. § 286  
 False Claims—18 U.S.C. § 287  
 Conspiracy to Defraud—18 U.S.C. § 371  
 Falsification of Contractors' Bonds, Bids, and Public Records—18 U.S.C. § 494  
 Theft, Embezzlement, or Destruction of Public Money, Property, or Records—18 U.S.C. § 641  
 False Statements—18 U.S.C. § 1001  
 Misuse of an Access Device—18 U.S.C. § 1029  
 Fraud and Related Activity in Connection with Computers—18 U.S.C. § 1030  
 Major Fraud Act—18 U.S.C. § 1031  
 Mail Fraud—18 U.S.C. § 1341  
 Wire Fraud—18 U.S.C. § 1343  
 Obstruction of Justice—18 U.S.C. § 1503  
 Obstruction of Proceedings—18 U.S.C. § 1505  
 Obstruction of a Federal Audit—18 U.S.C. § 1516  
 Trade Secrets Act—18 U.S.C. § 1905  
 Money Laundering—18 U.S.C. § 1956, et seq.  
 Racketeer Influenced and Corrupt Organizations—18 U.S.C. § 1961, et seq.  
 Priority of Government Claims in Bankruptcy—31 U.S.C. § 3713, et seq.  
 False Claims Act—31 U.S.C. § 3729, et seq.  
 Program Fraud Civil Remedies Act—31 U.S.C. § 3801, et seq.  
 Anti-Kickback Act—41 U.S.C. § 51, et seq.  
 Forfeiture of Claims under Contract Disputes Act—41 U.S.C. § 604, et seq.  
 Criminal Anti-Kickback Statute—41 U.S.C. § 8701, et seq.  
 Procurement Integrity Act—41 U.S.C. § 2102, et seq.  
 Prohibition on Contracting with the Enemy in the United States Central Command Theater of Operations – Public Law 112-81 § 841

#### *Section B--Contractual and Administrative Remedies*

- A. Termination for default
- B. Termination for convenience
- C. Termination for damages for gratuities
- D. Unilateral price reduction
- E. Deductive change order

- F. Revocation of acceptance
- G. Warranty or correction of defects
- H. Recovery of reprocurement costs
- I. Acceptance at a reduced price
- J. Rescission
- K. Reformation
- L. Withholding of payment
- M. Rejection of nonconforming Supplies or services
- N. Disallowance of contract costs
- O. Suspension of progress payments
- P. First article disapproval and nonpayment of costs
- Q. Recovery of nonrecurring costs for commercial sales
- R. Stop work order
- S. Cure notice
- T. Show cause letter
- U. Issue quality deficiency report
- W. Liquidated damages
- X. Technical data challenges
- Y. Subcontract disapproval
- Z. Other contract clauses providing remedies
- AA. Suspension
- BB. Debarment
- CC. Truth in Negotiations Act --10 U.S.C §13 2306
- DD. Suspension of Payments --10 U.S.C. §13 2307(e)
- EE. Revocation of forward pricing agreement
- FF. Refusal to employ fast pay procedures
- GG. Refusal to authorize certificate of conformance
- HH. Removal from qualified products list
- II. Removal from approved manufacturers list
- JJ. Heightened testing or inspection requirements
- KK. Closer surveillance
- LL. Termination of employment
- MM. Recoupment of the value of any bribe or gratuity
- NN. Revocation of a contracting officer's

**Attachment 3****REMEDIES PLAN TEMPLATE**

**NAME OF PRIMARY SUBJECT OF INVESTIGATION  
BASE PREPARING THE REMEDIES PLAN  
OSI NUMBER**

**SECTION 1. ADMINISTRATIVE DATA**

- A. Date of plan:
- B. Status of plan:
  - 1. Initial or update (if “update,” include revision number):
  - 2. Closure recommended:
  - 3. If “no,” suspense date for next update:
- C. CRIS Case number:
- D. Investigative support:
  - 1. Lead investigative agency:
  - 2. Other investigative agencies involved:
  - 3. Date of most recent case report on which this plan is based:
  - 4. Name and telephone number of principal case agent:
- E. Subject(s) of allegation (include corporate name, corporate divisions, and individuals, if applicable):
- F. Government officials involved in plan preparation:
  - 1. Responsible commander and office symbol:
  - 2. Name, telephone number, and office symbol of Acquisition Fraud Counsel:
  - 3. Responsible MAJCOM:
  - 4. Name, telephone number, and office symbol of DLA/DPRO attorney, if any:
  - 5. Name, telephone number, and office symbol of other government officials involved in plan preparation.
- G. Contract administrative data:
  - 1. Contract number(s):
  - 2. Type of contract:
  - 3. Dollar amount of contract:
  - 4. Period of contract:
  - 5. Phase of contract in which alleged wrongdoing took place:
    - ☐ Contract formation ☐ Contract performance
  - 6. Location where alleged offense took place:
  - 7. Contractor Commercial and Government Entity Code (CAGE) code.
- H. Audit support:
  - 1. Audit agency involved, if any:
  - 2. Name and telephone number of principal auditor.
- I. Cases arising out of qui tam actions:
  - 1. Is the case under seal? If so, explain what information is subject to the seal:
  - 2. Name of relator(s):

**SECTION II: ALLEGATIONS AND ADVERSE IMPACT STATEMENT**

A. Allegations (as detailed as possible):

B. Adverse impact statement:

1. Affected weapons Systems or programs:
2. Is impact contractor-wide or contract specific:
3. Estimated loss:

C. Name, telephone number, and office symbol of the Air Force Safety Center Official who has determined there is a serious hazard to health, safety, or operational readiness in defective product or product substitution cases:

**SECTION III: CONTRACT REVIEW**

A. List all contract violations which support pursuit of remedies. Include citations for the contract requirements (e.g., SOW, para IV(b), or MIL Q 9858A, para 4).

B. Name, telephone number, and office symbol of contracts attorney who performed the contract review:

C. Date of contract review completion:

**SECTION IV: POTENTIALLY APPLICABLE REMEDIES**

A. Criminal remedies:

1. Name and telephone number of AUSA responsible for criminal prosecution:
2. Has AUSA been briefed? If "no," why not?
3. Has AUSA accepted the case for criminal prosecution? If "no," why not?
4. Did AFC accompany AFOSI when a criminal prosecution decision was sought from AUSA? If "no," why not?
5. Potential criminal violations:
 

<input type="checkbox"/> False Claims, 18 U.S.C. § 287	<input type="checkbox"/> The Major Fraud Act, 18 U.S.C. § 1031
<input type="checkbox"/> False Statements, 18 U.S.C. § 1001	<input type="checkbox"/> Mail Fraud, 18 U.S.C. § 1341
<input type="checkbox"/> Wire Fraud, 18 U.S.C. § 1343	<input type="checkbox"/> Money Laundering, 18 U.S.C. § 1956
<input type="checkbox"/> Conspiracy to Defraud, 18 U.S.C. § 371	<input type="checkbox"/> Anti-Kickback Act, 41 U.S.C. § 51
<input type="checkbox"/> Bribery, Gratuities, Conflicts of Interest, 18 U.S.C. §§ 201-208	<input type="checkbox"/> Conspiracy to Defraud in Connection with Claims, 18 U.S.C. § 286
<input type="checkbox"/> Other (Specify):	

B. Civil remedies:

1. Name and telephone number of AUSA responsible for civil prosecution:
2. Has AUSA been briefed? If "no," why not?
3. Has AUSA accepted the case for civil prosecution? If "no," why not?
4. Did AFC accompany AFOSI when a civil prosecution decision was sought from AUSA? If "no," why not?
5. Potential civil violations:
 

<input type="checkbox"/> False Claims 31 U.S.C. § 3729	<input type="checkbox"/> PFCRA, 31 U.S.C. § 3801
<input type="checkbox"/> Other (Specify):	

C. Contractual remedies:

1. What potentially applicable remedy-granting clauses are in the affected contract (include clause number and date, if applicable):
2. Are these clauses being invoked? If "no," why not?

3. Identify any potentially applicable common law contract remedies:
4. Has the subject contractor submitted any claims against the Air Force which overlap the subject matter of this remedies plan? If so, explain the overlap, state whether a final decision was issued, and provide the ASBCA or Court of Federal Claims docket number:

D. Administrative remedies:

1. Has a suspension or debarment package been prepared? If “no,” why not? If “yes,” assess the adverse mission impact, if any, if the subject is subsequently suspended or debarred.
2. Identify any other viable administrative remedies. Are they being pursued? If “no,” why not?

**SECTION V: MISCELLANEOUS COMMENTS AND INFORMATION (include copies of relevant documents)**

- A. Indictments (identify by subject):
- B. Convictions (identify by subject):
- C. Criminal sentences (identify for each subject):
- D. Civil recoveries (identify by subject and include amounts and applicable funding citations):
- E. Contractual/administrative recoveries (identify by subject, action taken, and amount of recovery):
- F. Suspension (identify by subject):
- G. Debarment (identify by subject and include period of debarment):
- H. Congressional inquiries:
- I. Significant media attention:
- J. Small business status:
- K. Other relevant information:

**SECTION VI. REMEDIES PLAN PARTICIPANTS**

Name	Grade	Organization	Telephone No.
Acquisition Fraud Counsel		Contracting Officer	Investigating Agent

[These are the minimum essential remedies plan participants. Other plan participants, if any, should also be included.]

[SIGNED] Staff Judge Advocate

2 Attachments (at a minimum):

1. Lead investigating agent’s most current investigative report or summary [to be distributed only through legal and investigative channels]
2. Matching of criminal and civil offense elements to evidence produced to date [to be distributed only through legal and investigative channels]

**SECTION VII: MAJCOM COORDINATION AND COMMENTS**

[MAJCOM, FOA, OR DRU Acquisition Fraud Counsels should include specific feedback concerning the overall quality of the submitted plan, including requests for clarification or additional information for appropriate action or consideration in the next plan update.]